



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA-HQ-OAR-2011-011; FRL-9729-4]

RIN- 2060-AQ84

Protection of Stratospheric Ozone: Listing of Substitutes for Ozone-Depleting Substances--Fire Suppression and Explosion Protection

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to list three substitutes for ozone-depleting substances in the fire suppression and explosion protection sector as acceptable subject to use restrictions under the EPA's Significant New Alternatives Policy (SNAP) program. This program implements section 612 of the Clean Air Act, as amended in 1990, which requires EPA to evaluate substitutes for ozone-depleting substances and find them acceptable where they pose comparable or lower overall risk to human health and the environment than other available substitutes. In the "Rules and Regulations" section of this Federal Register, we are listing three fire suppression substitutes as acceptable subject to use restrictions as a direct final rule without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule; in such case, the final rule will become effective as provided in the accompanying direct final rule.

DATES: Comments must be received in writing or a request for a public hearing must be made as provided below by **[insert date 30 days from date of publication in the**

Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA- HQ-OAR-2011-0111, by mail to the following: “OAR Docket and Information Center, Environmental Protection Agency, Mailcode 6102T, 1200 Pennsylvania Ave., N.W., Washington, DC 20460.” Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the ADDRESSES section of the direct final rule located in the rules section of this Federal Register. To expedite review, a second copy of the comments should be sent to Bella Maranion at the address listed below under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Bella Maranion, Stratospheric Protection Division, Office of Atmospheric Programs (6205J), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (202) 343-9749; fax number: (202) 343-2363; email address: maranion.bella@epa.gov. The published versions of notices and rulemakings under the SNAP program are available on EPA’s Stratospheric Ozone Web site at <http://www.epa.gov/ozone/snap/regs>.

SUPPLEMENTARY INFORMATION:

I. Why is EPA Issuing This Proposed Rule?

This document proposes to list under SNAP certain substitutes for ozone-depleting substances for use in fire suppression applications. We have published a direct final rule listing three substitutes for ozone-depleting halons used in the fire suppression and explosion protection sector as acceptable subject to use restrictions in the “Rules and Regulations” section of this Federal Register because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action

in the preamble to the direct final rule.

II. Does This Action Apply to Me?

This proposed rule would regulate the use of Powdered Aerosol F (KSA[®]) and Powdered Aerosol G (Dry Sprinkler Powdered Aerosol (DSPA) Fixed Generators) by finding them acceptable subject to use conditions as substitutes for halon 1301 for use in total flooding fire suppression systems in normally unoccupied spaces. This action also proposes to find C7 Fluoroketone acceptable subject narrowed use limits as a substitute for halon 1211 for use as a streaming agent in portable fire extinguishers in nonresidential applications. Halons are chemicals that were once widely used in the fire protection sector but have been banned from production in the U.S. since 1994 because their emissions into the atmosphere are highly destructive to the stratospheric ozone layer. This action will provide users that need specialized fire protection applications with more options for alternatives to the use of halons. Businesses that may be regulated, either through manufacturing, distribution, installation and servicing, or use of the fire suppression equipment containing the substitutes are listed in the table below:

*Table 1–Potentially Regulated Entities,
by North American Industrial Classification System (NAICS) Code*

Category	NAICS code	Description of regulated entities
Construction	238210	Alarm system (e.g., fire, burglar), electric, installation only
Manufacturing	325998	Fire extinguisher chemical preparations manufacturing
Manufacturing	332919	Nozzles, fire fighting, manufacturing
Manufacturing	334290	Fire detection and alarm systems manufacturing
Manufacturing	336611	Shipbuilding and repairing

Manufacturing	339999	Fire extinguishers, portable, manufacturing
Manufacturing	336411	Aircraft manufacturing
Manufacturing	336413	Other aircraft parts and auxiliary equipment manufacturing

This table is not intended to be exhaustive, but rather a guide regarding entities likely to be regulated by this action. If you have any questions about whether this action applies to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

III. What Are the Procedures for Notice and Comment on This Rule?

The direct final rule will be effective on **[insert date 90 days from date of publication in the Federal Register]** without further notice unless we receive adverse comment or a request for a public hearing by **[insert date 30 days from date of publication in the Federal Register]**. If EPA receives adverse comment or a request for a public hearing, we will publish a timely withdrawal in the **Federal Register** informing the public that all or part of this rule will not take effect. If a public hearing is requested, EPA will provide notice in the **Federal Register** as to the location, date, and time. EPA will address all public comments in a subsequent final rule based on this proposed rule. We will not institute a second public comment period on this action. Any parties interested in commenting must do so at this time.

You may claim that information in your comments is confidential business information, as allowed by 40 CFR Part 2. If you submit comments and include information that you claim as confidential business information, we request that you submit them directly to Bella Maranion in two versions: one clearly marked “Public” to be filed in the public docket, and the other marked “Confidential” to be reviewed by

authorized government personnel only. For further information, please see the **ADDRESSES** section of this document.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866

OMB notified EPA on May 5, 2011, that it considers this action not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and it is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose any new information collection burden. This proposed rule is an Agency determination. It contains no new requirements for reporting or recordkeeping. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations in subpart G of 40 CFR part 82 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. and has assigned OMB control numbers 2060-0226 (EPA ICR No. 1596.08). The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.C.

C. Regulatory Flexibility Act (RFA)

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statutes unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impact of today's rule on small entities, small entities are defined as (1) a small business that produces or uses fire suppressants as total flooding and/or streaming agents with 500 or fewer employees or total annual receipts of \$5 million or less; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities beyond current industry practices. Today's action effectively supports the introduction of new alternatives to the market for fire protection extinguishing systems, thus providing additional options for users making the transition away from ozone-depleting halons.

Use of halon 1301 total flooding systems and halon 1211 as a streaming agent have historically been in specialty fire protection applications including essential electronics, civil aviation, military mobile weapon systems, oil and gas and other process industries, and merchant shipping with smaller segments of use including libraries, museums, and laboratories. The majority of halon system and extinguisher owners continue to maintain and refurbish existing systems and equipment since halon supplies continue to be available in the U.S. Owners of new facilities and purchasers of new fire

suppression equipment make up the market for the new alternative agent systems and equipment. They may also consider employing other available fire protection options including new, improved technology for early warning and smoke detection. Thus, EPA is providing more options to any entity, including small entities, by finding additional substitutes acceptable for use. The use restrictions imposed on the substitutes in today's rule are consistent with the applications suggested by the submitter and with current industry practices. Therefore, we conclude that the rule does not impose any new cost on businesses.

Although this proposed rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. By introducing new substitutes, today's rule gives additional flexibility to small entities that are concerned with fire suppression. EPA also has worked closely together with the NFPA, which conducts regular outreach with small entities and involves small state, local, and tribal governments in developing and implementing relevant fire protection standards and codes. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. *Unfunded Mandates Reform Act*

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), 2 U.S.C. 1531-1538 for State, local, or tribal governments or the private sector. This action imposes no enforceable duty on any State, local, or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. By introducing new fire suppression substitutes, today's rule provides an additional choice and flexibility to entities that are concerned with specialized fire protection applications. This proposed rule will provide additional options for fire protection subject to safety guidelines in industry standards. These standards are typically already required by state or local fire codes, so this action will not affect small governments.

E. *Executive Order 13132 (Federalism)*

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This proposed rule will provide additional options for fire protection subject to safety guidelines in industry standards. These standards are typically already required by state or local fire codes, and this rule does not require state, local, or tribal governments to change their regulations. Thus, Executive Order 13132 does not apply to this action.

F. *Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified

in Executive Order 13175. This proposed rule will provide additional options for fire protection subject to safety guidelines in industry standards. These standards are typically already required by state or local fire codes, and this rule does not require tribal governments to change their regulations. Thus, Executive Order 13175 does not apply to this action.

G. *Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks*

This action is not subject to EO 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in EO 12866, and because the Agency does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in section II of the associated direct final rule.

The public is invited to submit comments or identify peer-reviewed studies and data that assess effects of early life exposure to Powdered Aerosol F, Powdered Aerosol G (DSPA Fixed Generators), and C7 Fluoroketone.

H. *Executive Order 13211 (Energy Effects)*

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. *National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104-113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards

are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking does not involve technical standards. EPA defers to existing NFPA voluntary consensus standards and Occupational Safety and Health Administration (OSHA) regulations that relate to the safe use of halon substitutes reviewed under SNAP. EPA refers users to the latest edition of NFPA 2010 Standard on Aerosol Extinguishing Systems which provides for safe use of aerosol extinguishing agents and technologies as well as NFPA 10 Standard for Portable Fire Extinguishers. Copies of these standards may be obtained by calling the NFPA's telephone number for ordering publications at 1-800-344-3555. The NFPA 2010 and NFPA 10 standards meet the objectives of the rule by setting scientifically-based guidelines for safe exposure to halocarbon and inert gas agents and aerosol extinguishing agents as well as guidelines for portable extinguishers, respectively. In addition, EPA has worked in consultation with OSHA to encourage development of technical standards to be adopted by voluntary consensus standards bodies.

J. *Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high

and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. This rule would provide fire suppression substitutes that have no ODP and low or no GWP. The avoided ODS and GWP emissions would assist in restoring the stratospheric ozone layer, avoiding adverse climate impacts, and result in human health and environmental benefits.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: September 11, 2012

Lisa P. Jackson,
Administrator

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